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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/696,958      | 10/30/2003  | James Patrick Clinch | 140/40303A          | 8485             |

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TREXLER, BUSHNELL, GIANGIORGI,  
BLACKSTONE & MARR, LTD.  
105 WEST ADAMS STREET  
SUITE 3600  
CHICAGO, IL 60603

EXAMINER

MITCHELL, KATHERINE W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/696,958

Applicant(s)

CLINCH ET AL.

Examiner

Katherine W. Mitchell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1- 5, 6-9, 21-23, 27-32, 34-39, and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1- 5, 6-9, 21-23, 27-32, 34-39, and 43-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant ~~may not request~~ that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is ~~required~~ if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/21/2005</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

The drawings are accepted based on applicant's clarification.

### *Rule 105 Request*

1. The response to the Rule 105 request is acknowledged.
2. The indicated allowability of claims 4-7, 22, 32, and 39 is withdrawn in view of the newly discovered reference(s) to Anderson USP 4015650. Rejections based on the newly cited reference(s) follow.

### *Election/Restrictions*

3. Claim 9 has been rejoined since the search overlapped.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) ~~the invention was patented, described in a printed publication in this or a foreign country, or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States~~

5. Claims 1- 3, 6-9, 21,23, 27-32, 34-39, and 43-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson USP 4015650. First, examiner notes that intended use and functional descriptions are not limitations, and the reference needs only to be capable of performing that function.

Re claims 1- 3, 6-9, 21,23, 27-32, 34-39, and 43-46: Anderson teaches a cage member (Fig 1, see 12) engageable with a nut 38 having a threaded aperture (col 2 line 57), said cage member capable of encaging the nut (Fig 1) and having an aperture to

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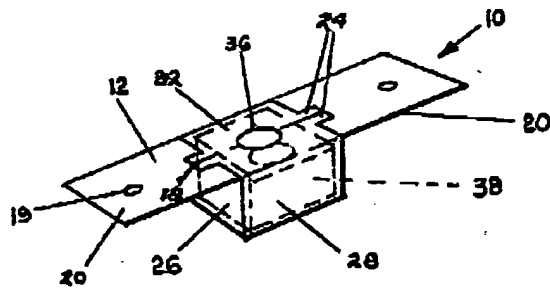
allow access to the threaded nut (Fig 1), said cage body having a base portion 16 and 1<sup>st</sup> and 2<sup>nd</sup> arms (28) extending from said base, and a seam (where 17 joins - Figs 1, 2 and 4) defined between 1<sup>st</sup> and 2<sup>nd</sup> arms (see below), at least one of said arm portions having at least one protrusion (tab 24 is considered a half protrusion, and protrudes from arm, two together are considered to form a whole protrusion, and there is a seam therebetween the formed protrusion, see Fig 1) capable of being welded to a mating surface, said seam capable of being provided proximate to a mating surface. Clearly the seam is capable of being near an (unclaimed) mating surface, and the protrusion is capable of being welded to a mating surface. The seam is weldable - both parts are metal. The nut is capable of moving in at least one dimension relative to the base when the nut is encaged. The cage forms a seam (Fig 1 and 5) which is located proximate the mating surface, The first and 2<sup>nd</sup> arms portions define lower portions of the cage member Fig 1 - orientation is arbitrary). And note that the protrusions 24 protrude from the lower surface (section 32 is shown in Fig 1 as covering 20). There is an aperture configured to allow access to the threaded aperture when the nut is encaged by the cage. The cage and nut members are separately formed and non-integral.

**seam** (sēm) noun

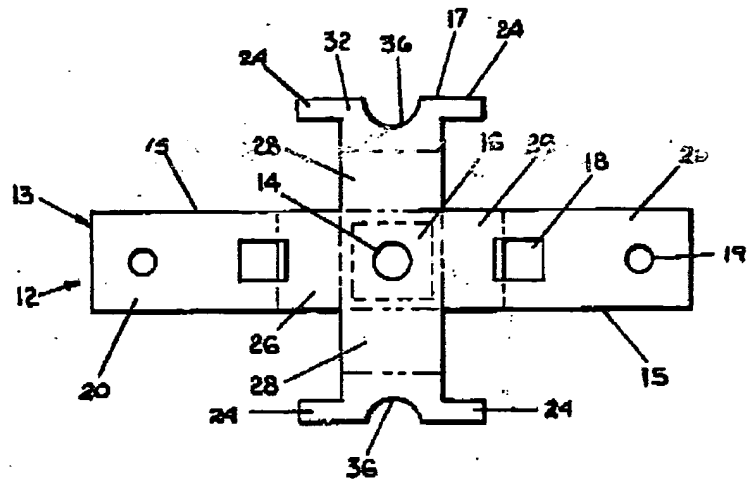
1.     a. A line of junction formed by sewing together two pieces of material along their margins. b. A similar line, ridge, or groove made by fitting, joining, or lapping together two sections along their edges. c. A suture. d. A scar.
2.     A line across a surface, as a crack, fissure, or wrinkle. <sup>1</sup>

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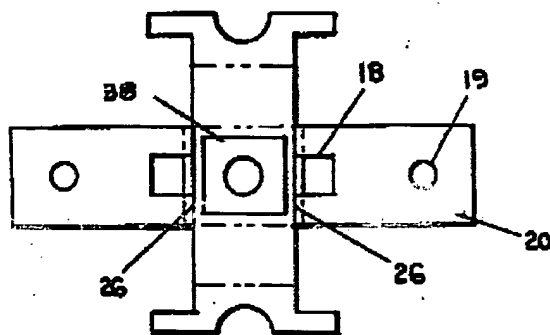
<sup>1</sup>Excerpted from *The American Heritage Dictionary of the English Language, Third Edition* Copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from Lernout & Hauspie Speech Products N.V., further reproduction and distribution restricted in accordance with the Copyright Law of the United States. All rights reserved.



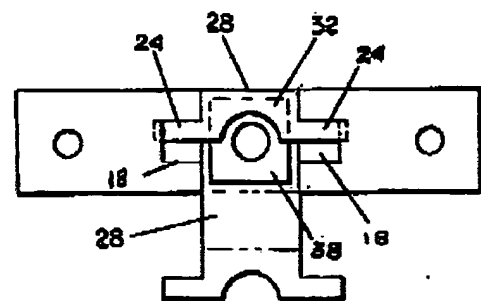
**FIG. 1**



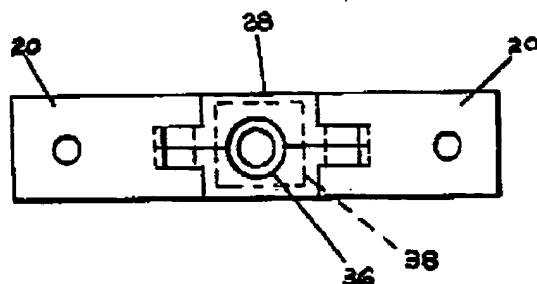
**FIG. 2**



**FIG. 3**



**FIG. 4**



**FIG. 5**

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Further Re claim 2: The protrusion is proximate the seam.

Further Re claim 8: Protuberance can be considered a dimple, absent any further limitation of definition:

dim·ple (dīm'pəl) *noun*

2. A slight depression or indentation in a surface.<sup>2</sup>

Further Re claim 9: Fig 1 shows the at least one protrusion as a tab.

Further Re claim 27 and 28: Figs 2-5 show the body including a flange movable in at least one direction to encage the nut member. Note that it is movable in an opposite directions to remove the nut.

Further Re 29-31: The flange member includes two flange members, which extend from the body and are integrally formed. However, examiner notes that it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973), and the method of forming is not germane in an apparatus claim.

Further Re 32 and 39: As best seen in Fig 2, the flange is generally L-shaped. However, note that absent some showing of criticality, changes in size or shape without special functional significance are not patentable. *Research Corp.v. Nasco Industries, Inc.*, 501 F2d 358; 182 USPQ 449 (CA 7) cert. Denied 184 USPQ 193; 43 USLW 3359 (1974).

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<sup>2</sup>Excerpted from *The American Heritage Dictionary of the English Language, Third Edition* Copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from Lernout & Hauspie Speech

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Further the flange is integral, the body includes 2 flanges, and at least 1 flange extends from the base portion. The flange is configured to be moved in a second direction (bent) as per above.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-5, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson. It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have varied the number of protrusions, since it has been held that mere duplication {or elimination} of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

***Comment on Allowable Subject Matter***

8. The newly found reference was found late in the process due to a classification error. As a suggestion to speed prosecution, allowable subject matter may be found in defining the protuberances to project outwardly from the planar surface of the cage base.

***Response to Arguments***

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9. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 571-272-7069. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kwm  
12/12/2005

Katherine W Mitchell  
Primary Examiner  
Art Unit 3677

